



DAU 5723
#12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

In re application of: Wang, et al.	Group Art Unit 3723 Examiner: D. Thomas APR 07 2004
Serial No. 10/052,475 Filed: January 17, 2002	OFFICE OF PETITIONS Atty. Docket No. 042496/0269274 Client Ref: NT-238
Chemical Mechanical Polishing Endpoint Detection	Date: April 2, 2004

AFTER FINAL – EXPEDITED PROCEDURE

CERTIFICATE OF HAND DELIVERY

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being hand delivered to Commissioner of Patents, Washington, D.C. on April 2, 2004.

By

Kathleen M. Smith
Kathleen M. Smith

**PETITION FOR ACCEPTANCE OF APPLICATION
REFUSAL BY INVENTOR TO JOIN (37 CFR 1.47)**

MAIL STOP AF

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

Applicants hereby petition for acceptance of this application without the signature of co-inventor Efrain Velazquez, based on said inventor's refusal to sign the Declaration.

1. The last known address of each inventor on this application is set forth below:

1st Inventor:

Yuchun Wang, 4498 Jan Way, San Jose, California 95124

2nd Inventor:

Bernard M. Frey, 2536 Piedmont Avenue #2, Berkeley, California 94704

3rd Inventor:

Bulent M. Basol, 3001 Maple Avenue, Manhattan Beach, California 90266

4th Inventor:

Douglas W. Young, 147 N. Murphy Avenue, Sunnyvale, California 94086

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07/20/2004 AXELLEY
01 FC:1460 130.00 DA

5th Inventor:

Homayoun Talieh, 2211 Bentley Ridge Drive, San Jose, California 95138

6th Inventor:

Efrain Velazquez, 439 North Avenue 51, Los Angeles, California 90042

2. At the time of filing this application on January 17, 2002, **Efrain Velazquez** was an employee of Nutool, Inc. His employment with Nutool terminated on May 16, 2003.

3. On December 9, 2003, in an email to Amy Alwine (a Nutool employee) responding to her request for a signed Declaration in a different application, **Efrain Velazquez** indicated that he had not been named as an inventor on an application that he did not identify, and indicated that he would not sign any other applications (Exhibit A).

4. On December 17, 2003, Daniel Hopen, Nutool's in-house counsel, emailed **Efrain Velazquez** requesting that he identify the application on which he was not named as an inventor (Exhibit B).

5. On December 17, 2003, **Efrain Velazquez** replied to Mr. Hopen's email. Without identifying this application specifically by name, he did indicate that his work could be found in notebooks and electronic files (Exhibit B)

6. Upon investigating the notebooks and files to which Mr. Velazquez referred, and interviewing other of the inventors in this application, it was determined that **Efrain Velazquez** should have been named as an inventor on the present invention.

7. By certified mail letter dated March 9, 2004 (Exhibit C) the undersigned counsel forwarded a copy of the complete application to **Efrain Velazquez** at his last known address, requesting his signature on a Declaration, an Assignment and Statement in Support of Request to Correct Inventorship. Counsel provided a prepaid return Fedex airbill and requested that the documents be returned by March 31, 2004.

8. As evidenced by the signed return receipt (Exhibit D) **Efrain Velazquez** acknowledged receipt of the March 9, 2004 letter on March 13, 2004.

9. As of the date of this submission, Mr. Velazquez has not returned the Declaration, the Assignment or the Statement in Support of Request to Correct Inventorship.

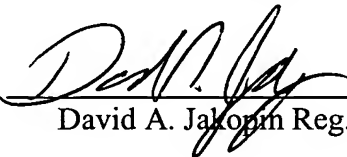
10. This petition is submitted in lieu of a Statement from the inventor being added that the error in inventorship occurred without deceptive intent on his part (37 CFR 1.48(a)).

Based on the foregoing facts and the supporting documentation, applicants believe that they have made a sufficient showing of the inventor's refusal to join the application, and request that this application be accepted without the signature of **Efrain Velazquez**.

The Commissioner is authorized to charge deposit account 50-2213 (Order No. 042496-0269274) for the requisite \$130 petition fee, and any other fees that may be due in connection with this petition.

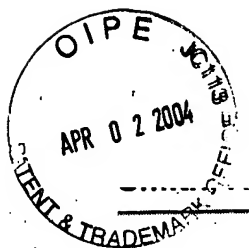
Respectfully submitted
PILLSBURY WINTHROP LLP

By



David A. Jakopin Reg. No. 32,995

RESPOND TO CUSTOMER NO. 27948



-----Original Message-----

From: Ef V [mailto:evelazq2002@yahoo.com]

Sent: Tuesday, December 09, 2003 9:29 PM

To: Amy Alwine

Subject: RE: NuTool

In fact the patent matter is a bit more serious than you think. I will tell you the whole story and I hope you will understand my decision.

A couple of weeks before I left NuTool, I found out that someone (who shall remain nameless) played a very bad move on me regarding a patent application which I considered to be very significant, due to the amount of time I spent working and researching and even improving. My name was not included in such application even though I considered myself and Yuchun as the original persons to conceive the idea. To be honest, I was extremely disappointed.

In fact Yuchun called me just a few weeks ago to say hello and he was very surprised to learn about this too. Before I left, I was updating my resume and I wanted to see if it was possible to apply for the improved version, and this is when I found out through Halit.

I always tried to create a good working atmosphere and I always let my work do the talking, hence I did not mention any of this at NuTool to prevent causing problems, and because there was nothing else to be done. No one knew about this Amy. I was not planning on saying anything, but due to the present circumstances I have to be honest.

The reason I requested the title of the patent, was because I wanted to make sure that it was not related to my first patent which was approved a long time ago.

The patent you are currently processing, has nothing to do with the one I just mentioned. However, after a hard and difficult decision, I regret to say that I will not sign any other applications. I

3/8/04

EXHIBIT A

am sorry that it had to come down to this, but what is right is right. Please remove my name from the application and let them know of my decision.

I know that this will certainly set back all the paperwork you have been processing, probably you will have to redo the whole thing. I do sincerely apologize TO YOU and I regret the inconvenience that this may cause you.

Efrain.

Amy Alwine <Aalwine@NuTool.com> wrote:

Hello Efrain,

That is no problem, the title is Reduction Of Defects In Conductive Layers During Electroplating, the inventors in this application is Bulent, Laila and yourself. I hope it was nothing serious, if there is anything I can do, please let me know.

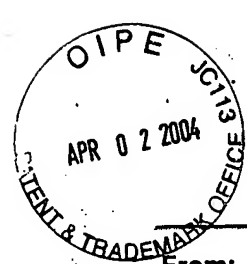
I have an idea, I could try scanning the documents and sending them by pdf. I will check on that.

Like I said before, if there is anything I can do to help please let me know.

Take care,
Amy

-----Original Message-----

From: Ef V [mailto:evelazq2002@yahoo.com]



From: Ef V [evelazq2002@yahoo.com]
Sent: Wednesday, December 17, 2003 9:43 AM
To: Daniel Hopen
Subject: Re: NuTool Documents and Inventorship

Hello Dan,

I appreciate the time you and Amy took on this matter. It was not my intention to go through all this, but when Amy contacted me I had to explain my reasons.

Please do not trouble yourself; I have not changed my position in this matter, for I made up my mind a while back, and I do not want to take more of your time. I know the process is delayed and the papers have to go ASAP

I am well aware of the policy you mentioned, as well as the non-disclosure agreement. That is why I am "realistic" about the issue, hence explaining my non-contesting conduct since the beginning.

Once again, I suggest for you not to go through all the hassle, but in the case you do, you can find some of my work in all my three notebooks, and electronics files. Better yet, ask the people I used to work with on the daily basis and they will tell you (process, manufacturing and engineering groups).

Once again Dan, thanks for the time you took.

Sincerely,
Efrain

Daniel Hopen <dhopen@NuTool.com> wrote:

Hi Efrain,

With regard to the patent application that was filed without identifying you as an inventor, I will investigate. In order to investigate, I will need more information to identify the application such as: specifics of the invention, approximately when it was filed, other inventors involved, or even the NuTool patent number and/or title of the invention.

EX-B

Do we have your lab notebook? There may be entries in it that will also show your contribution. If so, let me know the proximate time of the entries, and I will look.

With respect to the current Declaration and Assignment, I wish you will cooperate. If you do not, I can somewhat sympathize with you but can not agree with your action. One can not right a wrong by committing a wrong. I will get to the bottom this and if you are entitled to be listed as an inventor, you will be added. It is a mere formality to add you as an inventor. As it is a mere formality and minor inconvenience if you decide not to cooperate and not sign the Declaration and Assignment. Recall the NuTool Employee agreement which you had signed, there are provisions that already afford rights to NuTool for work performed during your employment.

Please reconsider your actions. I feel it is best that you sign the Declaration and Assignment. To the best of my ability, I will investigate the inventorship issue, do what is proper, and remedy any omission.

Sincerely,

Dan

Daniel Hopen

IP Counsel

NuTool, Inc.

1655 McCandless Drive

Milpitas, CA 95035

Phone: (408) 586-9500 x268

Fax: (408) 586-9508

dhopen@nutool.com

CONFIDENTIALITY NOTICE: This correspondence may contain confidential information that is legally privileged. If you are not the intended recipient, the use or disclosure of the information is prohibited. If you received the correspondence in error, please delete the correspondence, any attachments and notify me by a reply email to dhopen@nutool.com or by telephone at (408) 586-9500 x268. Thank you



PILLSBURY WINTHROP LLP

2475 HANOVER STREET PALO ALTO, CA 94304-1113 650.233.4500 F: 650.233.4545

March 9, 2004

David A. Jakopin
Phone: 650.233.4790
djakopin@pillsburywinthrop.com

Via Fedex and Certified U.S. Mail

Mr. Efrain Velazquez
439 North Avenue 51
Los Angeles, CA 90042

Re: U.S. Patent Application Serial No. 10/052,475 filed 01/17/2002
Chemical Mechanical Polishing Endpoint Detection
Nutool Ref. NT-238; Our Reference 042496/0269274

Dear Mr. Velazquez:

This Firm represents Nutool, Inc., your former employer, in connection with the above-referenced U.S. patent application. Nutool has advised us that you should have been named as an original inventor on this application. Before this application issues as a patent, we wish to file the appropriate papers to make this correction.


Enclosed is a copy of the patent application and drawings for your review, together with the amendments dated June 12, 2003 and December 3, 2003. The following formal papers requiring your signature are also enclosed:

1. Declaration
2. Assignment
3. Statement in Support of Request to Correct Inventorship.

Please review each document and indicate your agreement by signing and dating where indicated by the red arrow flags. Any competent adult may witness your signature on the Assignment. Kindly use the enclosed prepaid FEDEX envelope to return these three documents to us before March 31, 2004.

Thank you in advance for your cooperation in completing these formalities.

Very truly yours,


David A. Jakopin

DAJ:kms
Encls.
cc: Nutool, Inc.

EX. C



UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

David A. Jakopin
PILLSBURY WINTHROP LLP
2475 Hanover Street
Palo Alto, CA 94304

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Efrain Velazquez
139 North Avenue 51
Los Angeles, CA 90042

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

Efrain Velazquez 3/13/04
C. Signature

☒ X *Efrain Velazquez* ☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☒ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)
7000 0520 0023 1396 0604

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

EX-D